IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3687 of 2007()

PETITIONER:

RAJESH NAIR, AGED 38 YEARS,
S/O. K.NARAYANAN, RESIDING AT PUTHUSERY HOUSE,
KOTTAPPADY, TRICHUR DISTRICT.

BY ADV. SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE

RESPONDENTS:

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1. THE ASSISTANT COMMISSIONER OF POLICE,
KOZHIKODE.

2. THE SUB INSEPCTOR OF POLICE,
NADAKKAVU POLICE STATION, KOZHIKODE DISTRICT.
(REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM).

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 3687 OF 2007

Dated this the 19th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner claims to be the Regional Manager of M/s. Exterior – Interior Pvt. Ltd. There is an allegation that a number of students have been defrauded by the said establishment. A crime has been registered. The petitioner has not been shown as an accused so far. Investigation is in progress. The petitioner apprehends imminent arrest. He had earlier come before this Court and a Division Bench of this Court by Annexure-A1 judgment had accepted the submission of the learned Government Pleader that the petitioner will not be harassed and had closed the writ petition. The learned counsel for the petitioner submits that the police is continuing to make enquiries about the petitioner. The petitioner is willing to co-operate with the Investigators. In these circumstances, it is

prayed that directions under Sec.438 of the Cr.P.C. may be issued in favour of the petitioner.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner has not been co-operating with the Investigators. Investigation reveals that the petitioner is not available in India. The petitioner has to be questioned. The details of the persons responsible for running M/s Exterior – Interior Pvt. Ltd., have got to be ascertained from him. Only thereafter, it will be possible for the Investigators to take a decision as to whether the petitioner has to be arrayed as an accused or not. At this stage, it may not be proper or expedient to permit the petitioner to arm himself with an order of anticipatory bail. In these circumstances, it is prayed that this petition may be dismissed. It is submitted that the Investigators shall conduct the investigation in absolute compliance with the provisions of the Code and the petitioner need not apprehend any harassment at the hands of the Investigators.

3. I have considered all the relevant inputs. The request

of the Investigators that the petitioner must be available for interrogation does appear to me to be absolutely reasonable. The identity of the persons responsible for the conduct of the affairs of M/s Exterior and Interior Pvt. Ltd., will certainly have to be ascertained to fix the culpable responsibility, if any, for the alleged fraud and cheating. The petitioner cannot avoid the liability to meet the Investigators and answer their queries. I am not satisfied that it is necessary to permit the petitioner to arm himself with an order of anticipatory bail before he faces examination/interrogation of the Investigating Officer. The petitioner must co-operate with the Investigators. I am not persuaded to issue any direction under Sec.438 of the Cr.P.C.

4. Finally, the learned counsel for the petitioner offers, to allay any negative impression created by the representation that the petitioner is not willing to co-operate with the Investigators, that the petitioner is willing to appear before the Investigating Officer on any day to be specified by this Court. That offer does appear to me to be fair and reasonable. The learned Public

Prosecutor submits that in that event the petitioner may be directed to appear before the Investigating Officer for interrogation at 11 a.m. on 26/6/07. The petitioner's undertaking that he shall so appear is taken note of and recorded.

5. With the above observations, this application is dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge